

**Full Name**

Raul Badillo-Rangel

**Committed Name (if different)**

Raul Badillo-Rangel

**Full Address Including Name of Institution**Beaumont, U.S. Penitentiary  
P.O. Box 26030

Beaumont, Texas 77720-6030

**Prison Number (if applicable)** 39518-180**FILED**

JUN 6 2008

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                       
DEPUTY CLERK**A08CA 452SS****UNITED STATES DISTRICT COURT**RAUL BADILLO-RANGEL, ROBERTO URBINA-  
LOPEZ, MARIA MAGDALENA LOPEZ-TORRES,  
EDNA FABIOLA URIBE-HERRADA, MIRIAM  
LIZETH URIBE-HERRADA, et. al.,

Plaintiff,

VS.

FEDERAL BUREAU OF INVESTIGATION, UNITED  
STATES IMMIGRATION & NATURALIZATION,  
UNITED STATES DEPARTMENT OF JUSTICE,  
TRAVIS COUNTY SHERIFF'S DEPARTMENT,  
WILLIAMSON COUNTY SHERIFF'S DEPARTMENT,  
TEXAS DEPARTMENT OF PUBLIC SAFETY,  
STEPHAN MARSHALL, GEORGE SALINAS, ROBERT  
G. NEUENDORFF, JOE MATLOCK, DAVID CROOK,  
et. al.,

Defendants(s).

Case No. CV                     

(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
PURSUANT TO (check one)**☐ 42 U.S.C. § 1983.

or

☒ Bivens v. Six Unknown Agents  
403 U.S. 388 (1971)**A. PREVIOUS LAWSUITS**

- 1) Have you brought any other lawsuits in a federal court while a prisoner: ☐ Yes ☒ No
- 2) If your answer to A is yes, how many?            Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on an attached piece of paper using the same outline.)

a. Parties to this previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

b. Court \_\_\_\_\_

c. Docket or case number \_\_\_\_\_

d. Name of judge to whom case was assigned \_\_\_\_\_

e. Disposition (For example: Was the case dismissed? If so, what was the basis for dismissal? Was it appealed? Is it still pending?)  
\_\_\_\_\_

f. Issues raised: \_\_\_\_\_

g. Approximate date of filing lawsuit \_\_\_\_\_

h. Approximate date of disposition \_\_\_\_\_

**B. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

1) Is there a grievance procedure available at the institution where the events relating to your current complaint occurred?

☒ Yes ☐ No

2) Have you filed a grievance concerning the facts relating to your current complaint?

☐ Yes ☒ No

If your answer is no, explain why not I do not write or read English

3) Is the grievance procedure completed?

☐ Yes ☒ No

If your answer is no, explain why not because I do not write or read English  
and have been transferred a personero on my behalf has filed the complaint

4) Please attach copies of papers related to the grievance procedure.

### C. JURISDICTION

This complaint alleges that the civil rights of plaintiff Raul Badillo-Rangel, et. al.,  
 (print plaintiff's name)

who presently resides at P.O. Box 26030, Beaumont, Texas 77720-6030, were violated  
 (mailing address or place of confinement)

by the actions of the defendant(s) named below, which actions were directed against plaintiff at Travis,  
County, Texas at the County Jail  
 (institution/city where violation occurred)

on (date or dates) 05/01/03 to 02/01/04 on all counts  
 (Claim I) (Claim II) (Claim III)

(You need not name more than one defendant or allege more than one claim; however, make a copy of this page to provide the information below if you are naming more than five (5) defendants.)

1) Defendant Federal Bureau of Investigation-Stephan Marshall resides or works at  
 (full name of first defendant)  
1700 Paredes Line Road, Austin, Texas 78759-6539, and is employed as  
 (full address of first defendant)  
Special Agent, FBI  
 (defendant's position and title, if any)

The defendant is sued in his/her: ☒ individual ☒ official capacity. (Check one or both).

Explain how this defendant was acting under color of law: Defendant arrested plain-  
 tiffs and was part of multi-agency auto theft task force and was act-  
ing pursuant to information of the DPS and Travis County Sheriff's  
Department when defendants violated plaintiffs treaty rights and  
human and civil rights at all times for the Complaint .

2) Defendant U.S. IMMIGRATION & NATIRALIZATON-GEORGE SALINAS resides or works at  
 (full name of second defendant)

3600 Presidential Blvd., Suite 111 Austin, TX. 78719, and is employed as  
(full address of second defendant)  
an Investigator for U.S. Border Patrol/U.S. Customs  
(defendant's position and title, if any)

The defendant is sued in his/her: ☒ individual ☒ official capacity. (Check one or both).

Explain how this defendant was acting under color of law: Defendant was a part of multi-agency auto task force and arrested plaintiffs for alleged immigration violations and violated treaty, human and civil rights.

3) Defendant Texas Department of Public Safety-Robert Neuendorff resides or works at  
(full name of third defendant)

5805 N. Lamar Blvd., P.O. 4087 Austin, TX. 78773-0001, and is employed as  
(full address of third defendant)

Special Crimes Sergeant and Multi-Agency Auto Theft Task Force  
(defendant's position and title, if any)

The defendant is sued in his/her: ☒ individual ☒ official capacity. (Check one or both).

Explain how this defendant was acting under color of law: Defendant with Joe Matlock and David Crook arrested plaintiffs while being a part of a multi-agency auto task force in violation of treaty and violated human rights and civil rights of the plaintiffs under the authority of the Attorney General and U.S. Attorney executed a warrant.

4) Defendant Chris Rowland-Travis County Sheriff's Department resides or works at  
(full name of fourth defendant)

Travis County Sheriff, P.O. Box 1748 Austin, TX. 78767, and is employed as  
(full address of fourth defendant)

Travis County Sheriff's Deputy-Detective  
(defendant's position and title, if any)

The defendant is sued in his/her: ☒ individual ☒ official capacity. (Check one or both).

Explain how this defendant was acting under color of law: Defendant arrested plaintiffs while assigned to a Multi-Agency Auto Theft Task Force under the authority of Travis County District Attorney's Office.

5) Defendant Gerald C. Carruth and Johnny Sutton resides or works at  
(full name of fifth defendant)  
U.S. Attorney's Office 816 Congress Av., Suit 100 Austin, TX; and is employed as  
(full address of fifth defendant)  
Assist. U.S. District Attorney and U.S Attorney Western District of Texas  
(defendant's position and title, if any)

The defendant is sued in his/her: ☒ individual ☐ official capacity. (Check one or both).

Explain how this defendant was acting under color of law: Defendants commanded, counseled, procured and assisted other defendants and authorized arrest, detention, trial and sentence in contravention with a treaty and customary international law of human rights at all times herein. The defendants acted under the authority invested to them by the U.S Attorney General for the purposes of the Complaint.

### E. CLAIMS\*

#### CLAIM I

The following civil right has been violated: Due Process and equal protection rights were violated and Article 36 of the Vienna Convention on Consular Rights were violated as well as Title 28 C.F.R. 50.5

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be certain you describe, in separately numbered paragraphs, exactly what each DEFENDANT (by name) did to violate your right].

On or about May 22, 2003, Special Crimes Sergeants R.G. Neuendorff; with assistance of Joe Matlock and David Crook arrested Plaintiffs on warrant and failed to inform plaintiffs that they had the right to contact the Mexican Consulate. (Please see the attached Complaint)


\* If there is more than one claim, describe the additional claim(s) on another attached piece of paper using the same outline.

~~CLAIM II. In 2003 to 2004 Plaintiff under the authority of the U.S. Attorney Johnny Sutton and Gerald C. Garruth failed to notify the Mexican Consulate of the plaintiffs arrest and trial, sentence and the U.S. Attorney General failed to enforce treaty obligations as codified in Title 28 C.F.R. 50.5 and furthermore subjected plaintiffs to trial and sentence to conclude, is incompatible with the observance of international standards, norms of a fair trial and in full equality, adequate facilities to prepare their defense is of such gravity as to confer on the deprivation of liberty of an arbitrary character in violation of customary international law. (Please see Complaint for more details) .~~

#### F. REQUEST FOR RELIEF

I believe that I am entitled to the following specific relief:

Declaratory relief; Injunctive relief: Damages:Arbitrary Detention: Raul Badillo-Rangel on his own behalf seeks compensatory damages in excess of \$1,000,00 and punitive damages of at least \$1,000,000 . Badillo-Rangel on behalf of all plaintiffs demand a jury trial .

  
(Signature of Plaintiff)

(Date)



Raul Badillo-Rangel  
Federal Regulation I.D.# 39518-180  
Beaumont, U.S. Penitentiary  
P.O. Box 26030  
Beaumont, Texas 77720-6030  
In forma Propria Persona representation

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

RAUL BADILLO-RANGEL#39518-180, ROBERTO  
URBINA-LOPEZ#39608-180, MARIA MAGDALENA  
LOPEZ-TORRES#49006-180, EDNA FABIOLA  
URIBE-HERRADA, MIRIAM LIZETH URIBE-HERRADA,  
ALIEN REGISTRATION #MEXICO-09548318, et.al.)

Plaintiffs,

-- vs. --

FEDERAL BUREAU OF INVESTIGATION, UNITED  
STATES IMMIGRATION AND NATURALIZATION  
SERVICE, UNITED STATES DEPARTMENT OF  
JUSTICE AND TRAVIS COUNTY SHERIFF'S  
DEPARTMENT, WILLIAMSON COUNTY SHERIFF'S  
DEPARTMENT, TEXAS DEPARTMENT OF PUBLIC  
SAFETY, STEPHAN MARSHALL, GEORGE SALINAS,  
ROBERT G. NEUENDORFF, JOE MATLOCK AND  
DAVID CROOK, JESSE DELEON, MIGUEL CAMPOS,  
CHRIS ROWLAND, MIKE TUREK, GERALD C.  
GARRUTH, JOHNY SUTTON AND ESTATE OF  
ALBERTO GONZALES, AND MICHAEL MUKASEY,  
AND DOES I-XXX, et. al.,

DEFENDANTS .

**A08CA 452SS**

CASE NO. \_\_\_\_\_

COMPLAINT FOR DAMAGES,  
INJUNCTIVE RELIEF AND  
DECLARATORY RELIEF

DEMAND FOR JURY TRIAL

PLAINTIFFS RAUL BADILLO-RANGEL#39518-180, ROBERTO URBINA-LOPEZ#39608-  
180, MARIA MAGDALENA LOPES-TORRES#49006-180, EDNA FABIOLA URIBE-  
HERRADA, MIRIAM LEZETH, ALIEN REGISTRATION #MEXICO-0954318 complain  
against the DEFENDANTS FEDERAL BUREAU OF INVESTIGATION, UNITED STATES  
IMMIGRATION AND NATURALIZATION SERVICE, UNITED STATES DEPARTMENT OF  
JUSTICE, TRAVIS COUNTY SHERIFF'S DEPARTMENT, WILLIAMSON SHERIFF'S  
DEPARTMENT, TEXAS DEPARTMENT OF PUBLIC SAFETY, STEPHAN MARSHALL,  
GEORGE SALINAS, ROBERT G. NEUENDORFF, JOE MATLOCK, DAVID CROOK, JESSIE  
DELEON, MIGUEL CAMPOS, CHRIS ROWLAND, MIKE TUREK, GERALD C. CARRUTH,

(Complaint for damages, injunctive relief and declaratory relief)

JOHNNY SUTTON, ESTATE OF ALBERTO GONZALES, MICHAEL MUKASEY, and DOES  
I-XXX .

### JURISDICTION

This Court has jurisdiction pursuant to 28 USC 1331 (federal question involving interpretation of federal statute and treaty of the United States), 28 USC 1343 (deprivation of civil rights), 28 USC 1350 (for tort committed in violation of the law of nations and United States treaty), and 28 USC 1361 (mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiffs) .

### INTRADISTRICT ASSIGNMENT

This matter is properly assigned to the Western District of Texas, Austin Division, because this is a civil action that arose predominantly in the County of Travis .

### SUPPLEMENTAL JURISDICTION

Supplemental jurisdiction is sought in this matter pursuant to 28 USC 1367 . Under supplemental jurisdiction, it is not always necessary that original jurisdiction be found to lie separately for each individual plaintiff or with respect to each of several and distinct claims asserted by plaintiff, and jurisdiction over pendent parties applies whether parties with respect to whom supplemental jurisdiction is sought are defendants or plaintiffs .

### PARTIES

1. PLAINTIFFS RAUL BADILLO-RANGEL#39518-180, ALIEN REGISTRATION #MEXICO-091912994, ROBERTO URBINA-LOPEZ#39608-180, MARIA MAGDALENA LOPEZ-TORRES#49006-180 ALIEN REGISTRATION # MEXICO-091912997, EDNA FABIOLA URIBE-HERRADA, MIRIAM LIZETH URIBE-HERRADA ALIEN REGISTRATION # MEXICO-09548318 are citizens of the United Mexican States(Estados



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Unidos Mexicanos), and resided in the State of Texas . PLAINTIFFS RAUL BADILLO-RANGEL, ROBERTO URBINA-LOPEZ, MARIA MAGDALENA LOPEZ-TORRES are under the authority of the United States Attorney General and incarcerated at the high-security unit of the Federal Correctional Complex, Beaumont, Texas . MARIA MAGDALENA LOPEZ-TORRES is presently under the authority of the United States Attorney General in the custody of the Bureau of Prisons at the Federal Correctional Institution, Tallahassee, 501 Capitol Circle NE. Tallahassee, Florida 32301 .

2. PLAINTIFFS EDNA FABIOLA URIBE-HERRADA and MIRIAM LIZETH URIBE-HERRADA, presently reside at Brisas 109 Colonia, Las Palmas, Piedras Negras, Coahuila, Mexico 26070 . All plaintiffs' herein action complain that the named defendants at all relevant times mentioned violated their rights under the Vienna Convention on Consular Relations, Art.36 ("VCCR"), Apr. 24, 1963, 21 U.S.T. 77, T.I.A.S. No.6820, 596 U.N.T.S. 261, by not allowing them to contact the consulate of Mexico upon their arrest . The United States and Mexico have signed the VCCR, which grants foreign nationals like plaintiffs' the right to contact their consul immediately upon detention .

3. DEFENDANTS FEDERAL BUREAU OF INVESTIGATION and UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE and UNITED STATES DEPARTMENT OF JUSTICE are federal agencies . In 1967 the heads of these agencies entered into a revealed agreement, giving rise to policy and establishing a uniform procedure for consular notification where nationals of foreign countries are arrested by officers of DOJ on charges of criminal violations . It conforms to practice under international law and in particular implements obligations undertaken by the United States pursuant to treaties with respect to the arrest and detention of foreign nationals . The primary responsibility for enforcement of this

statement of 28 CFR Section 50.5 and 8 CFR 2361(e)(DHS), rests directly with the head of each agency, in order to assure coordination of section 50.5 and 2361(e)(DHS) enforcement and consistency among agencies .

4. DEFENDANT STEPHEN MARSHALL was at all times relevant herein special agent of the defendant FBI . On May 22, 2003, Agent Stephen Marshall of the FBI at the Texas Department of Public Safety District Office interview Badillo-Rangel and Urbina-Lopez, at the time Agent Marshall explained to Badillo-Rangel the charge that had been levied against him and Agent Marshall knew that Badilla-Rangel and Lopez-Urbina were Mexican nationals because the information was provided to Agent Marshall, by reports prepared by Segeant Investigator Robert G. Neuendorff of the Special Crimes Service of the Texas Department of Public Safety("DPS") and by Deputy Sheriff Chris Rowland of the Travis County Sheriff's Office, while assigned to a muti-agency auto theft task force . Agent Marshall/mirandized/Badillo-Rangel but he did not inform Badillo-Rangel that he had the right under the VCCR to contact the Mexican consulate . This defendant is being sued in his individual and official capacity .

5. DEFENDANT GEORGE SALINAS was at all times relevant herein a investigator of the defendant INS/DHS . Once Badillo-Rangel and Urbina-Lopez were arrested Sergeant Neuendorff and Detective Rowland with the assistance of Investigator George Salinas of the Immigration Service contacted tenants of room 145 at the Hearhside Extended Stay Studios . The tenants of room 145 at the Hearthside Extended Stay Studios were then identified as Maria Magdalena Lopez-Torres and Miriam Lizeth Uribe-Herrada . Investigator George Salinas arrested both Lopez-Torres and Uribe-Herrada for possible immigration violations . Law

(Complaint for damages, injunctive relief and declaratory relief)

enforcement named--herein and others unknown to the plaintiffs' reported that Lopez-Torres had a prior record through Williamson County, Texas for tampering with a governmental record . Agent Salinas did not advise Lopez-Torres and Uribe-Herrada that they had the right under the VCCR to contact the Mexican consulate, and Agent Salinas knew that Lopez-Torres and Uribe-Herrada were Mexican nationals . This Defendant is sued in his individual and official capacity .

6. DEFENDANTS ROBERT G. NEUENDORFF, JOE MATLOCK were at all times herein mentioned Special Crime Sergeants of the defendant DPS and were assigned to assist the Travis County Auto Theft Task Force Deputy Chris Rowland and with the assistance of Special Crimes Sergeant David Crook, on May 22, 2003, arrested Badillo-Rangel and R. Urbina-Lopez for engaging in organized criminal activity on a warrant(warrant #5-03-0210) issued by Detective Chris Rowland of the Travis County Sheriff's Office . Defendants Special Crime Sergeants Robert G. Neuen-dorff, Joe Matlock and David Crook did not inform Badillo-Rangel and R. Urbina-Lopez that they had the right under the VCCR to contact the Mexican consulate, defendants reports and other investigators who's names are unknown to the plaintiffs' also arrested in Austin, Texas Maria Magdalena Lopez-Torres and Miriam Lizeth Uribe-Herrada . These Defendants are being sued in their individual and official capacities .

7. DEFENDANTS JESSE DELEON and MIGUEL CAMPOS were at all times herein mentioned Highway Patrolmen/Troopers of the defendant Texas Department of Public Safety . On May 22, 2003, while assisting Sergeants Matlock and Crook Trooper Jesse DeLeon stopped and arrested Badillo-Rangel and R. Urbina-Lopez on ~~TH~~ 35 at MP#238 . Badillo-Rangel was arrested for engaging in organized criminal activity-aggravated robbery a 1st degree felony under warrant#5-03-0210 . R. Urbina-

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Lopez was also detained on IH 35 at MP#238 with Badillo-Rangel pending identification and was later charged and arrested for engaging in organized criminal activity under warrant#2-03-1940 and aggravated robbery under warrant #2-03-1941 . On May 22,2003, R. Urbina-Lopez was mirandized in Spanish by DEFENDANT MIGUEL CAMPOS but knew however, that R. Urbina-Lopez was a Mexican national and he did not inform R. Urbina-Lopez that he had the right under the VCCR to contact the Mexican consulate . DEFENDANTS JESSE DELEON and MIGUEL CAMPOS are being sued in their individual and official capacities .

8. DEFENDANT CHRIS ROWLAND on May 22,2003, was assigned to the Travis County Auto-Theft Task Force . Deputy Rowland obtained a warrant for the arrest of Badillo-Rangel for engaging in criminal activity, and on said date Badillo-Rangel was arrested by DPS officers . All of the information upon the underlying criminal case against the plaintiffs' was provided to Special Agent Stephan Marshall, FBI, by Sergeant Investigator Robert G. Neuendorff of the Special Crimes Service of the Texas Department of Public Safety(DPS) and by Deputy Sheriff Chris Rowland of the Travis County Sheriff's Office, and said Deputy Sheriff Chris Rowland knew that the named plaintiffs' were Mexican nationals, and at all times all the named defendants were assigned to a multi-agency auto theft task force . DEFENDANT CHRIS ROWLAND, however, knew that the plaintiffs were foreign nationals but failed to advise them that they had the right under the VCCR to contact the Mexican consulate . DEFENDANT CHRIS ROWLAND is being sued in his individual and official capacity .

9. DEFENDANT MIKE TURECK, Investigator for the Defendant Williamson County Sheriff's Department, Georgetown, Texas . DEFENDANT MIKE TURECK and other Unknown Williamson County Deputies previously had arrested

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Plaintiff Maria Magdalena Lopez-Torres and at the time of the arrest failed to provide consular notification, and knew that said plaintiff was a Mexican national at the time of the previous arrest and at the time that of her arrest on May 22, 2003 at the time that Lopez-Torres was found to have had a prior arrest record through Williamson County, Texas for tampering with a governmental record . DEFENDANT MIKE TURECK and DOES I-XXX knew however, that the plaintiff was a Mexican national but did not inform her that she had the right under the VCCR to contact the Mexican consulate and moreover, failed to inform the multi-agency auto theft task force that she was a Mexican national . This defendant is sued in his individual and official capacity .

10. DEFENDANTS GERALD C. GARRUTH and JOHNNY SUTTON is and was at all relevant times herein respectfully a United States Assistant District Attorney and United States Attorney . DEFENDANT GERALD C. GARRUTH, ASSISTANT U.S. ATTORNEY was employed at the United States Attorney's Office 816 Congress Avenue, Suite 100 Austin, Texas 78701. DEFENDANT JOHNNY SUTTON was employed as a U.S. Attorney by the defendant DOJ in the Western District of Texas, United States Attorney's Main Offices are located at 601 NW Loop 410, Suite 600 San Antonio, Texas 78216 . On or about June, 2003 Johnny Sutton, Gerald C. Garruth and John Phiniz State Bar No. 15959500 knew that the offense charged against Badillo-Rangel and other plaintiffs herein, that the named criminal defendants were not a citizen of the United States and/or lawfully admitted for permant residence requiring an intial 10 day detention under the provisions of 18 USC 3142(d) at the time that the United States requested pretrial detention pursuant to its United States motion for detention filed with the U.S. Court,

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arrested and detained Maria Magdalena Lopez-Torres and did not inform her that at the time of her arrest she had the right under the VCCR to contact the Mexican consulate . DEFENDANT MIKE TURECK and other Unknown Williamson County Sheriff Deputy's are sue in their individual and official capacities .

DEFENDANT GERALD C. CARRUTH and JOHNNY SUTTON is and was at all relevant times herein an employee of the Defendant DOJ . DEFENDANT GERALD C. CARRUTH is employed as U.S. Assistant District Attorney for Anthony Brown, Chief United States Attorney's Office 816 Congress Avenue, Suit 100 Austin, Texas 78701 and DEFENDANT JOHNNY SUTTON, is employed as a United States District Attorney for the Western District of Texas, United States District Attorney's Office 601 NW Loop 410, Suite 600 San Antonio, Texas 78216 . In June of 2003 the Defendants Gerald C. Carruth and Johnny Sutton represented the iter-ist of the United States and moved the United States District Court to hear the United States' motion for detention . The United States through her Attorney requested in Criminal No. A-03-191-M under Title 18, United States Code Section 3141, et seg., that the then named defendant Raul Badillo-Rangel be held in pretrial detention, and that said motion for detention was grounded upon the fact that; "an offense committed by the above named defendant who is not a citizen of the United States or lawfully admitted for permanent residence requiring an intial 10 days detention under the provisions of 18 USC Section 3142(d)", would show that the undersigned names appearing on said motion for detention is that of Johnny Sutton and Gerald C. Carruth and that of John Phiniz which was filed with the U.S. Clerk on May 23, 2003 . For the purposes of the Complaint these defendants had knowledge and belief that on or about December 8, 2003 in Travis



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County, in the Western District of Texas, defendants herein procured, counseled, aided, ~~abett~~<sup>abett</sup>ed and assisted the other defendants, to deprive Raul Badillo-Rangel and the others named as plaintiff's of their rights under the VCCR contact the Mexican consulate, and for the purpose of disallowing these foreign nationals to secure witnesses and evidence to defend themselves and assist in their own defense at the time that they were arrested, detained, tried and subsequently sentenced to prison terms as more fully appears. The Complaint regards deprivation of the plaintiffs' liberty as arbitrary in the underlying criminal case upon complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right of a fair trial is of such gravity as to confer on the deprivation of liberty, of these plaintiffs, who are foreign nationals arrested by officials, agents of the DOJ, of an arbitrary character. DEFENDANTS GERALD C. CARRUTH and JOHNNY SUTTON represent the interest of the estate of the Attorney General at all times mentioned herein, giving rise to a policy and an established procedure for consular notification where nationals of foreign countries are arrested by officers of the--Department of Justice on charges of criminal violations, in specific, that the U.S. Attorney shall then notify the appropriate consul except where he has been informed that the foreign national does not desire such notification be made. DEFENDANT GERALD C. CARRUTH and JOHNNY SUTTON are being sued in their individual and official capacities.

11. DEFENDANT MICHAEL MUKASEY is the successive United States Attorney General following Alberto Gonzales. This defendant is being

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sued in his individual and official capacity .

12. PLAINTIFFS are unaware of the identities and capacities of DEFENDANTS DOES I-XXX at this time, and request leave to amend this complaint when that information is ascertained .

13. PLAINTIFF EDNA FABIOLA URIBE-HERRADA is currently 24 years old and is residing in Piedras Negras, Coahuila, Mexico from 2003 until the present . In 2003 at the time of Badillo-Rangel's trial he then informed his Defense Attorney Victor Olavson that Edna Fabiola Uribe was willing to provide her testimony which could be deemed as exculpatory evidence that could prove Badillo-Rangel was innocent of the charges against him . At the time that Edna Fabiola Uribe-Herrada was at the time of the trial and sentence on a permit/visa #NVL00-193179, D.O.B. June 6, 1984 when she ~~showed~~ her self to testify in Badillo-Rangel's trial and sentence . However, at the trial, defense attorney informed Badillo-Rangel that the trial judge was not allowing Edna Fabiola Uribe-Herrada to testify on Badillo-Rangel's behalf . On this day at trial, when the court session was over, Edna Fabiola Uribe-Herrada ~~was~~ **arrested by** Does I-XXX of the INS/DHS . The very next day the Defendant INS/DHS deported Edna Fabiola Uribe-Herrada back to Mexico and other witnesses that could have exonerated Badillo-Rangel were also deported without being allowed to testify . The International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 article 14 and the Universal Declaration of Human rights, article 9 for example would show that illegal arrest and detention may constitute an international tort and that for guidance regarding the norms of international law, court may look to court decisions, the works of jurists and usage of nations . The Complaint raises claim that the Plaintiffs arrest, trial, sentence and deportations are

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in contravention with the purposes of the VCCR and with customary law of international law of human rights .

STATEMENT OF FACTS

14. On May 21, 2003 Special Crimes Sergeant Robert Neuendorff and Detective Chris Rowland of the Travis County Auto Theft Task Force contacted several motels in the Cedar Park and Austin areas in an attempt to locate Raul Badillo-Rangel . Positive identification of Badillo-Rangel was made by the management and staff of the Hearthside Extended Stay Studios at 12989 Research Blvd., Austin, Texas 787729 (Cedar Park Vicinity) . Identification of Badillo-Rangel was also made by the management at the Ramada Limited located at 9121 North IH 35, Austin, Texas 78753 . It was claimed that Badillo-Rangel had been seen the previous day at both locations .

15. On May 22, 2003 Sergeant Neuendorff and Detective Rowland set up surveillance at the Hearthsided Extended Staty Studios . Sergeant Matlock witnessed Badillo-Rangel exit the Ramada Limited and enter a vehicle, identified as green Dodge Stratus, Texas LP#HJC, with another hispanic male, later identified as Roberto Urbina-Lopez .

16. Sergeant Matlock and Sergeant Crook with the assistance of Trooper Jesse Deleon stopped and arrested Badillo-Rangel and Urbina-Lopez on IH 35S at MP#238 . Badillo-Rangel was arrested for engaging organized criminal activity-aggravated robbery under warrant #5-03-0210 . Urbina-Lopez was detained pending identification and was later charged and arrested for engaging in organized criminal activity under warrant #2-03-1940 and aggravated robbery under warrant #2-03-1941 .

17. Badillo-Rangel and Urbina-Lopez were transported to the Texas Department of Public Safety District office in Austin to be interviewed . The green Dodge Stratus was also driven to the Texas Department of Public Safety District office and secured .

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And Once Badillo-Rangel and Urbina-Lopez were arrested Sergeant Neuendorff and Detective Rowland with the assistance of Investigator George Salinas of the United States Immigration Service initiated contact with the tenants of room 145 at the Hearthside Extended Stay Studios . Badillo-Rangel was witnessed by the cleaning staff of the motel as leaving the room on a daily basis since May 19, 2003 .

18. The tenants of room 145 were identified as Maria Magdalena Lopez and Miriam Lizeth Uribe-Herrada . Investigator Salinas arrested both Lopez and Herrada for possible immigration violations . Lopez was said to have had a prior arrest record through Williamson County, Texas for tampering with government record . Sergeant Neuendorff was said to have been granted consent to search from Lopez of the vehicle a Blue 1991 Mitsubishi 2 door, both Lopez and Herrada exited earlier that morning .

19. On May 22, 2003 Sergeant Neuendorff met with Agent Stephen Marshall of the FBI at the Texas Department of Public Safety office to interview Badillo-Rangel and Lopez . Agent Marshall mirandized Badillo-Rangel and explained to Badillo-Rangel the charges that he had been levied against Badillo-Rangel .

20. Badillo-Rangel, claimed innocence to these charges and explained people were telling lies against him . Badillo-Rangel said he knew many people that were committing the crimes Badillo-Rangel was being charged with but he was innocent . When Agent Marshall asked Badillo-Rangel for specific names Badillo-Rangel requested Badillo-Rangel's lawyer before giving information . The interview was ended without gaining any information .

21. On May 22, 2003 Lopez was positively identified as being part of two, alleged armed car-jackings that took place on December 8th

and 9th, 2002 in Travis County . Lopez was mirandized in Spanish by Trooper Miguel Campos . Agent Marshall then asked Lopez if Lopez wished to answer any questions . Lopez was said to only stare at Agent Marshall and slid some papers that were handed to him toward Agent Marshall .

22. On May 22, 2003, Sergeant Neuendorff and Detective Rowland transported Badillo-Rangel and Lopez to the Travis County Jail where they were incarcerated on the above listed charges .

23. On May 22, 2003, Sergeant Neuendorff searched room 126 of the Ramada Limited at 9121 North, IH 35 in Austin, with consent of the management . Evidence in the room was said to have lead Sergeant Neuendorff to believe that Badillo-Rangel was living in the room with Lopez . Sergeant Neuendorff secured a leather agenda book which contained names and phone numbers from the room along with letters, business cards, receipts, and other papers that contained phone numbers . The items were secured and held then as evidence .

24. On May 22, 2003 Sergeant Neuendorff also conducted an inventory of the green Dodge Stratus that Badillo-Rangel and Lopez were in prior to the arrest . (Abas Wrecker of Austin impounded the vehicle) .

#### CLASS ACTION ALLEGATIONS

Statement Describing The Class on Behalf of Which the Action is Sought to be Maintained .

There are two classes on behalf of which this action is sought to be maintained:

A. The plaintiffs' that are currently confined under the authority of the United States Attorney General and in the custody of the Federal Bureau of Prisons and Detention Centers, Jails within the jurisdiction and venue rules of this Court . These class members are

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mostly Mexican nationals that are having problems with prison conditions, or simply need to contact someone back in their home country, and need to contact their consulate . Mexican nationals imprisoned in prisons and jails are unable to find guidelines and procedures for filing grievances in the State of Texas prisons and jails . In general, these prisoners should be able to find guidelines and procedures in the prison, jail law library but because of language barriers they are unable to understand these rules to enable them to file a grievance to ensure an effective use of the grievance procedure . Appeals procedures within the prisons and jails in each particular jail in Austin, Texas deprives the plaintiffs' of their right to appeal departmental decisions, conditions, or policies that effect them negatively and are being prevented from obtaining assistance through the appeal process because they have difficulty with written English .

B. The plaintiffs and all others similarly situated reside in Mexico and have previously been arrested and detained in the United States . These class members, largely Mexican nationals in particular were arrested and detained but were released and at no time ever informed as we stated above of their right to contact the Mexican consulate . Prisoners who are foreign nationals are not allowed reasonable facilities to communicate with diplomatic and consular representatives of the State to which they belong . Immigrant detainees constitute a marginalized and vulnerable group in the incarcerated population . See generally Detained and Deprived of Right, supra; Human Rights Watch, Locked Away; Immigration Detainees in Jails in the United States, at <http://www,hrw.org/reports98/us-immig> (Sept. 1998); Slipping Through the Cracks, supra . As of 1998, the immigration and Naturalization Service ("INS") was housing 60 percent



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of detainees in local jails, despite their non-criminal status..

**Immigration Deatainees in Jail, supra, at ch.1** . The conditions in in jails and prisons, troubling as they are for incarcerated criminals, are even more so for immigrant detainees, whose confinement is not suppose to constitute punishment . Moreover, foreign nationals have more difficulty seeking redress for violations of their righs, in particular because they can not speak English well .

**Statement of Facts Showing That Parties are Entitled to Maintain the Action Under Paragraphs (a) and (b) of FRCP 23 .**

With potential classes of hundreds of people, if not thousands, joinder is impracticable pursuant to 23(a)(1) . Under 23(a)(2), questions of law and fact are common to the class .

As set forth in Rule 23(a)(3 and 4), claims of the plaintiffs are typical of the claims of the class, and the plaintiffs fairly and adequately protect the interist of the class members .

Under Rule 23(b)(1)(A), class action is appropriate because multiple suits would create a risk of adjudications establishing inconsistent or incompatible standards of conduct for the party opposing the class .

Under Rule 23(b)(1)(B), a class suite is appropriate because individual actions would as a practicable matter conclude the interist of other members of the class or impair their ability to protect their own interist .

Under Rule 23(b)(2), a class suit is appropriate because the opposing party has acted on grounds generally applicable to a group, thereby making injunctive or declarartory relief appropriate for the class .

#### **THEORY OF CAUSATION**

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The VCCR is a 79-article, multilateral treaty to which both the United States of America and the United Mexican States are signatories. The VCCR was approved by the Senate on October 22, 1969, formally ratified by President Nixon on November 12, 1969, and entered into force for the United States on December 24, 1969. Having been ratified, it became "law of the land" under the Supremacy Clause of the United States Constitution. U.S. Const. art. VI, cl. 2.

The rights of consular notification and consultation enumerated in the VCCR are reinforced by federal regulations designed to implement this nation's treaty obligations. (See Title 28 C.F.R. 50.5 and 8 C.F.R. 235.1(e) requiring FBI, DOJ and INS to notify every detained alien of the right to communicate with consul).

Notably the United States of America State Department, which was assigned to enforce the VCCR, sends regular notices to state and local officials reminding them of their notification obligations under the Treaty. (See Kadish, 18 Mich. J. Int'l L. at 599 & nn. 211-214, citing Breard v. Netherland, 949 F. Supp. 1255 (E.D. Va.1996)).

All of this requires that authorities of the receiving State inform the person detained of his right to have the fact of his detention reported to the consular post. If he/she so requests, the consular post shall be notified without delay. This is binding on federal, state, and local government officials to the extent that they pertain to matters within competence of the said officials for the purposes of the Complaint.

The United States of America signatories of the international and executive agreement-Department of Justice was established by act of June 22, 1870 (28 USC 501, 503, 509 note), with the Attorney General as its head. The affairs and activities of the DOJ are gen-

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erally directed by the Attorney General . The Federal Bureau of Investigations, is the principle investigative arm of the United States Department of Justice . It is primarily charged with gathering and reporting facts, locating witnesses, and compiling evidence in cases involving Federal jurisdiction . It also provides law enforcement leadership and assistance to state and international law enforcement agencies . The Immigration and Naturalization Service is responsible for operational programs in adjudications and nationality, inspections, and detention and deportation, as well as the U.S. Border Patrol . The primary responsibility for enforcement of statement that has been designed to establish a uniform procedure for consular notification where nationals of foreign countries arrested by officers of the DOJ on charges of criminal violations, rests directly with the heads of each agency, Attorney General Alberto Gonzales and U.S. Attorney Johnny Sutton, Anthony Brown, Gerald C. Carruth, John Ashcroft, James W. Ziglar, Robert S. Mueller III-and their successors, agencies and agents are legally liable for failure to assure coordination of Title 28 C.F.R. 50.5 and Title 8 C.F.R. 235.1(e) enforcement and consistency among agencies .

The signatories of the DOJ, FBI, INS, DPS, Travis County Sheriff's Office and Travis County District Attorney's Office, and multi-agency auto theft task force from December 2002 to 2003 are legally liable for arbitrary arrest and detention in violation of customary international law of human rights and for the after-effects which continue to this present day . Johnny Sutton and Gerald Conley Garruth, their successors and their agents knew or should have known that failing to inform the plaintiffs whom they knew to be Mexican nationals, but did not inform them that they had the right under the VCCR to con-

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tact the Mexican consulate would cause a deprivation of the plaintiffs rights, and furthermore deprive the Consular authorities of Mexico to not have access to their citizens . Gerald Conley Carruth while prosecuting the plaintiffs knew that witnesses whom could provide testimony on behalf of Badillo-Rangel had been deported to Mexico, while another witness who showed at the trial and sentence of said Badillo-Rangel was arrested at the courthouse on pretext that her passport had been canceled, therefore depriving Badillo-Rangel from securing exculpatory testimony. The Mexican Consulate would have acquired documents, persons concerning exculpatory evidence in Mexico to enable him to present a defense in his criminal case . Gerald Conley and Johnny Sutton are the proximate cause, if not the direct cause that Badillo-Rangel's human rights were violated because of complete or partial non-observance of relevant international standards set forth in the Universal Declaration of Human Rights and in relevant international instruments accepted by the States concerned relating to the right to a fair trial, and is of such gravity as to confer upon the deprivation of liberty an arbitrary character . This imbalance, taking into account the severe sentences received by the persons under consideration in this case, is incompatible with the standards contained in Article 14 of the International Covenant on Civil and Political Rights, that guarantee that each person accused of a crime has the right to exercise, in full equality, all the adequate facilities to prepare his defense . The Complaint raise question, if in this trial there has been an adherence to the international norms of a fair trial . It is stated that the accused did not receive the full protection of the U.S. legal system, including counsel, investigators, and experts provided at the expense of the

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United States Government . The source hereby denounces arbitrary acts committed in the course of the criminal trial . The Personero on behalf of the plaintiffs in action iterates that the criminally accused did not enjoy a fair trial, pointing out primarily that they were denied access to the Mexican consulate . The violation of the right to consular notification in contrast is hereby stated is connected to the gathering of evidence under Article 36 of the VCCR for the purpose of the Complaint . The principle thrust of the Complaint against the **multi-agency auto task force** is that defendants actions, omissions interferes with foreign policy of the Executive Branch, as expressed in the executive agreements with Mexico , given the "concern for uniformity in this country's dealings with foreign nations" that animated the Constitution's allocation of the foreign relations power of the national government in the first place . The outcome follows' the well known pattern of disregard for our treaty obligations of inter alia supra Case Concerning Avena and other Mexican Nationals (Mex. v. U.S.), 2003 I.C.J. \_\_\_\_ (Order of Feb.5)(Order in case, concerning petitioner Osbaldo Torres); LaGrand Case (F.R.G. v. U.S.), 2001 I.C.J. 466 (Judgment of June 27) and Memorandum for the Attorney General (Feb.28,2005) .

The proof of the harm which ensued is based on official statistical evidence from human rights organizations police departments, courts, and jails in addition, individual plaintiffs and witnesses will testify concerning the injuries and prejudice they sustained due to prison and jail conditions and disregard to our treaty obligations .

#### CAUSE OF ACTION

1. The United States of America's failure to report to the Secretary General on the implementation of the Standard Minimum Rules,

(Complaint for damages, injunctive relief and declaratory relief) see Suzanne M. Bernard, An Eye for an Eye: The Current Status of International Law on Humane Treatment of Prisoners, 25 Rutgers L.J. 759, 774 & n.91 (1994)(citing Committee on Crime Prevention and Control, Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners, May 25, 1984, E.S.C. Res. 1984/47, U.N. ESCOR, 76th Sess., Supp. No. 1, at 29, U.N. Doc. E/1984/84), and their compliance with that mandate constitutes both relevant practice and evidence of opinio juris , along with the DOJ's acquiescence to non-reporting a foreign nationals arrest, detention to the appropriate consular post and to inform foreign nationals that they have the right under the VCCR to contact the consulate, interfered with law enforcement's efforts to protect the public and to protect the integrity of our judicial system and interfered with the conduct, under Article II of the Federal Constitution, of foreign policy by the executive branch of the Federal Government, as expressed principally by some executive agreements . This violated plaintiffs right to due process, as guaranteed by the 5th and 14th Amendments of the United States Constitution . Plaintiffs' were denied equal protection because:

- A. defendants violated federal law and executive orders requiring DOJ in every case in which a foreign national is arrested the arresting officer shall inform the foreign national that his consul will be advised of his/her arrest unless he/she does not wish to have consul notified, and then that the U.S. Attorney shall then notify the appropriate consul except where he he has been informed that the foreign national does not desire such notification be made, and this failure to report impacted the plaintiffs; and



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- B. as result of the defendants' conduct, plaintiffs did not receive the full protection of the U.S. legal system, and reiterates that the plaintiffs' did not enjoy a fair trial, and that documents and testimony of witnesses constituting the evidence against the accused persons and testimony which constitutes exculpatory evidence were excluded, thereby, the effective exercise of the right to defense was impaired .

For this violation of their civil rights, plaintiffs' are entitled to relief pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971) .

2. Whether plaintiffs' invoke the Alien Tort Claims Act on the basis of a tort committed in violation of a United States treaty or in violation of the law of nations, plaintiffs' case will "arise under" federal law for the purposes of Article III of the United States Constitution .
3. Pendent jurisdiction, in the sense of judicial power, exists whenever there is a claim "arising under (the) Constitution, the laws of the United States, and Treaties made, or which shall be made, under their Authority...U.S. Constitution Art. III, sec. 2," and the relationship between that claim and the state claims made in the complaint permits the conclusion that the entire action before the Court comprises but one constitutional "case" .
4. Each of the plaintiffs' assert claims that they were subjected to arbitrary arrest and detention in violation of the ATCA . The international consensus surrounding arbitrary arrest and detention has found expression in numerous international treaties and accords . Badillo-Rangel, claims that in the determinat-

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ion of the criminal charge against him, taking into account the severe sentences recieved by the persons under consideration in this case, is incompatible with the standards contained in Article 14 of the International Covenant on Civil and Political Rights, in full equality, that the trial did not take place in climate of objectivity and impartiality which is required in order to conclude on the observance of the standards of a fair trial, as defined in Article 14 of the International Covenant on Civil and Political Rights, to which the United States is a party:

- A. To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing:
- B. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him:
- C. To be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong;
- D. To be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adopt himself to the institution .

This nations credibility would be weakened by the non-compliance with treaty obligations or with international norms . The United States seek's to impose international norms-including, notably, those on

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terroism-upon other nations . It would seem strange, then, if the goverment would seek to avoid enforcement of such norms within its own borders . The United States can not reap the benefits of internationally recognized human rights-in the form of greater worldwide stability and respect for people-without being willing to adhere to them itself . As a moral leader of the world, the United States has obligations itself not to disregard rights uniformly recognized by other nations . Thus, United States courts act appropriately when they construe statutory programs in accordance with international law; they avoid a construction which, "if given its literal application, would threaten the interest of the United States by placing the Nation in violation of international standards or embarrassing the political branches in their conduct of foreign relations".

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a jury trial in this action

**RELIEF SOUGHT**

Declaratory relief:. Plaintiffs seek a declaration that the multi-agency auto theft task force agreement and the consequent policy and practice of not informing foreign nationals that they have the right under the **Vienna Convention on Consular Relations**, to contact their consulate was illegal .


Injunctive relief: Plaintiffs seek an order requiring the FBI, INS, to report to the DOJ to inform the nearest U.S. Attorney of the arrest and of the arrested persons wishes regarding consular notification; and a consent degree regarding prison conditions with proper opportunity to defend themselves or to argue their causes and enable them to petition the courts and other goverment authorities, including diplomatic and consular authorities .

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Damages: Arbitrary Detention: Plaintiffs Raul Badillo-Rangel, Roberto Urbina-Lopez, Maria Magdalena Lopez-Torres, Edna Fabiola Uribe-Herrada, Miriam Lizeth Urribe-Herrada seek compensatory damages in excess of \$1,000,000 and punitive damages of at least \$ 1,000,000 each .

Plaintiffs also request reasonable attorneys' fees, costs and any other relief which the Court deems proper .

Dated: May 30, 2008

RESPECTFULLY SUBMITTED,  
  
\_\_\_\_\_  
RAUL BADILLO-RANGEL in forma  
propria persona:

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VERIFICATION

I Raul Badillo-Rangel, declare under penalty of perjury that I am the plaintiff in the above-captioned civil action, that I have read the foregoing civil complaint and know the contents thereof, that the same is true to the deponents own knowledge, except as to those matters stated by me therein upon information and belief, which matters deponent believes them to be true.

A handwritten signature in cursive script, reading "Raul Badillo-Rangel", written over a horizontal line.

RAUL BADILLO-RANGEL  
FEDERAL REGULATION #39518-180  
BEAUMONT, U.S. PENITENTIARY  
P.O. BOX, 26030  
BEAUMONT, TEXAS. 77720-6030

# Certificate of Service

I, RAUL BADILLO-RANGEL hereby certify that I have served a true and correct copy of the following:

**COMPLAINT FOR DAMAGES,  
INJUNCTIVE RELIEF AND  
DECLARATORY RELIEF**

**DEMAND FOR JURY TRIAL**

which is deemed filed at the time it was delivered to prison authorities for forwarding [Houston v. Lack 101 L.Ed.2d 245 (1988)] upon the defendant(s) and or his/her attorney(s) of record by placing same in a sealed, postage prepaid envelope addressed to :

**CLERK, UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
UNITED STATES COURTHOUSE  
200 W. 8TH STREET, ROOM 130  
AUSTIN, TEXAS. 78701-9620**

and by depositing same in the United States Mail at the United State Penitentiary, Beaumont, Texas on this 30 day of MAY, 2008.

RAUL BADILLO-RANGEL #39518-180

( Name)

U.S. PENITENTIARY  
P.O. BOX, 26030

(Address)

BEAUMONT, TEXAS. 77720-6030

(City, State, Zip)